

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2528

Introduced by Assembly Member John A. Pérez

February 24, 2012

An act to add Section 2923.4 to the Civil Code, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2528, as amended, John A. Pérez. Mortgages and deeds of trust: foreclosure: military members.

Existing law regulates various aspects of mortgages and deeds of trust, including, among other things, foreclosure procedures applicable when a borrower is in default on one of those instruments. *Existing law requires that, upon a breach of the obligation of a mortgage or transfer of an interest in property, the trustee, mortgagee, or beneficiary record a notice of default in the office of the county recorder where the mortgaged or trust property is situated and mail the notice of default to the mortgagor or trustor.*

~~This bill would express the intent of the Legislature to enact legislation to preclude foreclosure proceedings when the borrower is an active member of the military, unless the lender has first attempted a loan modification~~ *require that in order for a notice of default to be recorded, it include a declaration stating that the mortgagee, trustee, or authorized agent contacted the borrower to determine if the borrower is an active duty servicemember; and if the borrower is an active duty servicemember, or was an active duty servicemember 90 days prior to the date the notice of default is to be recorded, that the mortgagee, trustee, or authorized agent has complied with the federal Servicemembers Civil Relief Act.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 2923.4 is added to the Civil Code, to read:*
2 *2923.4. A notice of default shall not be recorded pursuant to*
3 *Section 2924 unless it also includes a declaration stating that the*
4 *mortgagee, trustee, or authorized agent contacted the borrower*
5 *to determine if the borrower is an active duty servicemember, and*
6 *if the borrower is an active duty servicemember, or was an active*
7 *duty servicemember 90 days prior to the date the notice of default*
8 *is to be recorded, that the mortgagee, trustee, or authorized agent*
9 *has complied with the federal Servicemembers Civil Relief Act (50*
10 *U.S.C. Appen. Sec. 501 et. seq.).*
11 ~~SECTION 1. It is the intent of the Legislature to enact~~
12 ~~legislation to preclude foreclosure proceedings when the borrower~~
13 ~~is an active member of the military, unless the lender has first~~
14 ~~attempted a loan modification.~~